

§ 1700.3

under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scholarly research.

(3) *Noncommercial scientific institution:* An institution that is not operated on a commercial basis, as that term is defined in paragraph (h)(1) of this section, and that is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scientific research.

(4) *Representative of the news media:* An individual actively gathering news for an entity that is organized and operated to publish and broadcast news to the public and pursuant to the entity's news dissemination function and not its commercial interests; the term "news" means information which concerns current events, would be of current interest to the general public, would enhance the public understanding of the operations or activities of the U.S. Government, and is in fact disseminated to a significant element of the public at minimal cost; freelance journalists are included in this definition if they provide sufficient evidence to justify an expectation of publication through such an organization, even though not actually employed by it; a publication contract or prior publication record is relevant to such status;

(5) *All other:* A request from an individual not within paragraphs (h)(1), (2), (3), or (4) of this section;

(i) *Freedom of Information Act, "FOIA," or "the Act"* means the statute as codified at 5 U.S.C. 552;

(j) *ODNI* means the Office of the Director of National Intelligence and its component organizations. It does not include other members of the Intelligence Community as defined in 50 U.S.C. 401a, or other federal entities subsequently designated in accordance with this authority, unless specifically designated as included in this Part or in the notice of a system of records;

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(k) *Potential requester* means a person, organization, or other entity who submits an expression of interest.

§ 1700.3 Contact for general information and requests.

For general information on this Part, to inquire about the FOIA program at ODNI, or to file a FOIA request (or expression of interest), please direct communication in writing to the Office of the Director of National Intelligence, Chief FOIA Officer c/o Director, Information Management Office, Washington, DC 20511 by mail or by facsimile at (703) 482-2144. FOIA requests can also be submitted by electronic mail to *FOIA @ dni.gov*. For general information or status information on pending cases only, call the ODNI FOIA Customer Service Center at (571) 204-4774.

§ 1700.4 Preliminary information.

Members of the public shall address all communications to the point of contact specified in § 1700.3 and clearly delineate the communication as a request under the FOIA. ODNI staff who receive a FOIA request shall expeditiously forward the request to the Director, Information Management Office (IMO). Requests and appeals (as well as referrals and consultations) received from FOIA requesters who owe outstanding fees for information services at this or other federal agencies will not be accepted and action on all pending requests shall be terminated in such circumstances.

§ 1700.5 Requirements as to form and content.

(a) *Required information.* No particular form is required. A request must reasonably describe the record or records being sought and be submitted in accordance with this regulation. Documents must be described sufficiently to enable a staff member familiar with the subject to locate the documents with a reasonable amount of effort. Whenever possible, your request should include specific information about each record sought, such as the date, title or name, author, recipient, and the subject matter of the record. As a general rule, the more specific you are about the records or type of records

that you want, the more likely it will be that the IMO will be able to locate records responsive to your request. The IMO will provide you an opportunity to discuss your request with it so that you may modify your request to meet the requirements of this section. If after having been asked to do so you do not provide the IMO with information sufficient to enable it to locate responsive records your request will be closed.

(b) *Additional information for fee determination.* A requester must provide sufficient personally identifying information to allow staff to determine the appropriate fee category and to contact the requester easily.

§ 1700.6 Fees for records services.

(a) *In general.* Search, review, and reproduction fees will be charged in accordance with the provisions below relating to schedule, limitations, and category of requester. Applicable fees will be due even if a subsequent search locates no responsive records or some or all of the responsive records must be denied under one or more of the exemptions of the FOIA.

(b) *Fee waiver requests.* Records will be furnished without charge or at a reduced rate when ODNI determines:

(1) As a matter of administrative discretion, the interest of the United States Government would be served, or

(2) It is in the public interest to provide responsive records because the disclosure is likely to contribute *significantly* to the public understanding of the operations or activities of the United States Government and is not primarily in the commercial interest of the requester.

(c) *Fee waiver appeals.* Denials of requests for fee waivers or reductions

may be appealed to the Director of the Intelligence Staff, or his functional equivalent, through the ODNI Chief FOIA Officer. A requester is encouraged to provide any explanation or argument as to how his or her request satisfies the requirements of this regulation and the Act. See § 1700.14 for further details on appeals.

(d) *Time for fee waiver requests and appeals.* Appeals should be resolved prior to the initiation of processing and the incurring of costs. However, fee waiver requests will be accepted at any time prior to an agency decision regarding the request, except when processing has been initiated, in which case the requester must agree to be responsible for costs in the event of an adverse administrative or judicial decision.

(e) *Agreement to pay fees.* If you make a FOIA request, it shall be considered a firm commitment by you to pay all applicable fees chargeable under this regulation, up to and including the amount of \$25.00, unless you ask for a waiver of fees. When making a request, you may specify a willingness to pay a greater or lesser amount.

(f) *Advance payment.* The ODNI may require an advance payment of up to 100 percent of the estimated fees when projected fees exceed \$250.00, not including charges associated with the first 100 pages of production and two hours of search (when applicable), or when the requester previously failed to pay fees in a timely fashion, for fees of any amount. ODNI will hold in abeyance for 45 days those requests where advance payment has been requested.

(g) *Schedule of fees.*—(1) *In general.* The schedule of fees for services performed in responding to requests for records is as follows:

Personnel Search and Review		
Clerical/Technical	Quarter hour	\$5.00
Professional/Supervisory	Quarter hour	10.00
Manager/Senior Professional	Quarter hour	18.00
Computer Search and Production		
Search (on-line)	Flat rate	10.00
Search (off-line)	Flat rate	30.00
Other activity	Per minute	10.00
Tapes (mainframe cassette)	Each	9.00